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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**
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13 STRIKE 3 HOLDINGS, LLC,
14 Plaintiff,

15 vs.

16 JOHN DOE subscriber assigned IP address
17 73.162.81.234,
18 Defendant.

Case Number: 5:21-cv-00760-VKD

Honorable Virginia K. DeMarchi

**[PROPOSED] DEFAULT JUDGMENT
AND PERMANENT INJUNCTION
AGAINST DEFENDANT**

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22 THIS CAUSE came before the Court on the Motion for Default Judgment Against
23 Emmanuel Andaya (“Motion”) filed by Plaintiff Strike 3 Holdings, LLC (“Plaintiff”). Having
24 considered the Motion, being otherwise duly advised in the premises, and good cause appearing,
25 the Court hereby

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27 **FINDS:**
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1 1. The address of Plaintiff is:

2 Strike 3 Holdings, LLC
3 c/o Lincoln D. Bandlow, Esq.
4 Law Offices of Lincoln Bandlow, PC
5 1801 Century Park East, Suite 2400
6 Los Angeles, CA 90067
7 E-mail: lincoln@bandlowlaw.com

8 2. The name and address of Defendant is:

9 Emmanuel Andaya
10 1751 Marco Polo Way Apt 8
11 Burlingame, California 94010

12 3. This Court has jurisdiction over the subject matter of this case and the parties.

13 4. Venue is proper in this District.

14 5. The Complaint states claims for direct copyright infringement, in violation of
15 17 U.S.C. § 101 upon which relief may be granted against Defendant.

16 6. Defendant has failed to plead or otherwise defend against Plaintiff's Complaint,
17 Dkt. 1, in this action.

18 7. Default was entered as to Defendant on May 11, 2021.

19 8. Defendant is not a minor, incompetent person or in active military service.

20 9. By reason of default, Defendant has admitted the truth of the allegations in
21 Plaintiff's Complaint.

22 10. Under Count I of the Complaint, Defendant is hereby found liable to Plaintiff for
23 willfully committing direct copyright infringement.

24 11. Defendant will continue to cause Plaintiff irreparable injury. Specifically, there
25 is an existing threat of continued violations of Plaintiff's exclusive rights to reproduce,
26 distribute, perform and display the 35 copyrighted works listed on Exhibit A attached hereto
27 (the "Works") through Defendant's use of the BitTorrent protocol to upload and download the
28 Works between and among peer users without authorization from Plaintiff.

 12. There will be no injury to Defendant caused by entry of a permanent injunction
 requiring Defendant to cease infringing Plaintiff's Works.

1 13. Entry of a permanent injunction against Defendant is in the public interest
 2 because it “preserv[es] the integrity of copyright laws which encourage individual effort and
 3 creativity by granting valuable enforceable rights.” *DSC Communications Corp. v. DGI*
 4 *Technologies*, 898 F. Supp.1183, 1196 (N.D. Tex. 1995).

5 14. In accordance with Rule 65(d), Federal Rules of Civil Procedure, this Default
 6 Judgment shall be binding upon Defendant and all other persons in active concert or
 7 participation with Defendant who receives actual notice of this Default Judgment.

8 15. Plaintiff has submitted a Declaration demonstrating that Plaintiff expended a
 9 total of \$658.97 in costs, which amount this Court finds reasonable.

10 Based on the foregoing findings, it is:

11 **ORDERED AND ADJUDGED** that Defendant Emmanuel Andaya:

12 (a) shall pay to Plaintiff the sum of \$26,250.00 in statutory damages, as authorized under
 13 17 U.S.C. § 504(c)(1), and \$658.97 for costs, as authorized under 17 U.S.C. § 505, making a
 14 total of \$26,908.97, **for which let execution issue forthwith;**

15 (b) shall pay to Plaintiff post-judgment interest at the current legal rate allowed and
 16 accruing under 28 U.S.C. § 1961 as of the date of this Default Judgment until the date of its
 17 satisfaction;

18 (c) be and hereby is enjoined from directly, contributorily or indirectly infringing
 19 Plaintiff’s rights under federal or state law in the Works, including, without limitation, by using
 20 the internet, BitTorrent or any other online media distribution system to reproduce (e.g.,
 21 download) and/or distribute the Works, or to make the Works available for distribution to the
 22 public, except pursuant to a lawful license or with the express authority of Plaintiff.

23 (d) be and hereby is ordered to destroy all copies of Plaintiff’s works that the Defendant
 24 Emmanuel Andaya has downloaded onto any computer hard drive or server without Plaintiff’s
 25 authorization and shall destroy all copies of the Works transferred onto any physical medium or
 26 device in Defendant’s possession, custody, or control.

27 (e) The Court shall retain jurisdiction over this action for six months or until the
 28 judgment is satisfied to entertain such further proceedings supplementary and to enter such

1 further orders as may be necessary or appropriate to implement and enforce the provisions of
2 this Default Judgment.

3 **DONE AND ORDERED** this ____ day of _____, 2021.

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5 By: _____
6 United States Magistrate Judge
7 Honorable Virginia K. DeMarchi
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